

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MATTHEW SILVA,

Plaintiff,

vs.

HAROLD CLARKE, MAGGIE  
MILLER-STOUT, CAROL PORTER,  
DOUG WADDINGTON, JOHN AND  
JANE DOES 1-50.

## Defendants.

NO. CV-05-414-MWL

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND DISMISSING  
COMPLAINT WITH PREJUDICE

1915(g)

Magistrate Judge Leavitt filed a Report and Recommendation on October 2, 2006, recommending Mr. Silva's civil rights complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted. Plaintiff had failed to assert facts from which the court could infer named Defendants personally participated in a violation of his constitutionally protected rights. *Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Plaintiff did not comply with the directives to amend his complaint and has filed no objections to the present Report and Recommendation.

There being no objections, **IT IS ORDERED** the Report and  
Recommendation (Ct. Rec. 24) is **ADOPTED in its entirety** and the  
ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DISMISSING COMPLAINT WITH PREJUDICE -- 1

1 complaint is **DISMISSED WITH PREJUDICE** under 28 U.S.C. §§ 1915(e)(2)  
2 and 1915A(b)(1).

3 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a  
4 prisoner who brings three or more civil actions or appeals which are  
5 dismissed as frivolous or for failure to state a claim will be  
6 precluded from bringing any other civil action or appeal *in forma*  
7 *pauperis* "unless the prisoner is under imminent danger of serious  
8 physical injury." 28 U.S.C. § 1915(g). **Plaintiff is advised to read**  
9 **the new statutory provisions under 28 U.S.C. § 1915. This dismissal**  
10 **of Plaintiff's complaint may count as one of the three dismissals**  
11 **allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to**  
12 **file future claims.**

13 **IT IS SO ORDERED.** The District Court Executive is directed to  
14 enter this Order, forward a copy to Plaintiff at his last known  
15 address, enter judgment, and close the file. The District Court  
16 Executive is further directed to forward a copy of this Order to the  
17 Office of the Attorney General of Washington, Criminal Justice  
18 Division.

19 **DATED** this 7<sup>th</sup> day of November 2006.

20 *s/ Robert H. Whaley*

21 ROBERT H. WHALEY  
22 CHIEF UNITED STATES DISTRICT JUDGE

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27 ORDER ADOPTING REPORT AND RECOMMENDATION  
28 AND DISMISSING COMPLAINT WITH PREJUDICE -- 2